



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

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MEMORANDUM

TO: Senators HAMMOND, Brackett, Werk and,
Representatives PALMER, Ellsworth, Ringo

FROM: Eric Milstead - Principal Legislative Research Analyst

DATE: April 25, 2012

SUBJECT: Temporary Rule

IDAPA 11.13.01 - Motor Carrier Rules - Temporary Rule - Docket No. 11-1301-1201

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. Please call with any questions - 334-4845. Thank you.

Attachment: Temporary Rule

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IDAPA 11 - IDAHO STATE POLICE

11.13.01 - MOTOR CARRIER RULES

DOCKET NO. 11-1301-1201

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is March 1, 2012.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 67-2901A and 49-901, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

This rule change is necessitated by changes to Federal Code, and will update Idaho rules to conform to the Commercial Federal Regulation changes pertaining to commercial motor vehicles regarding hours of service and the restricted use of hand held devices.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To update and bring Idaho's Motor Carrier Rules into accord with the current version of Title 49, Code of Federal Regulations, Parts 383, 390, 391, 392, and 395 which have been amended by the Federal Motor Carrier Safety Administration. These sections of 49 CFR have been incorporated by reference in Idaho's Motor Carrier Rules found in IDAPA 11.03.01.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Lt. Jim Eavenson, 884-7048 or james.eavenson@isp.idaho.gov.

DATED this 30th day of March, 2012.

Colonel G. Jerry Russell
Director
Idaho State Police
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 11-1301-1201

019. CARRIER SAFETY REQUIREMENTS (RULE 19).

01. Adoption of Federal Regulations. Adoption of Federal Regulations 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, this rule at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019, removes that exemption and subjects the intrastate carrier

to the same requirements. The Department asserts its authority under Section 019 to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388.

(3-30-07)

a. All interstate and foreign carriers and intrastate carriers, except those carriers listed in Subsection 019.01.b., subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers).

(3-30-07)

b. Intrastate carriers operating commercial motor vehicles transporting property with a GVW, GVWR, GCW or GCWR greater than ten thousand (10,000) pounds and up to twenty-six thousand (26,000) pounds, subject to the authority of the Idaho State Police, must comply with 49 CFR Part 390 Subpart A, Part 391.15, Parts 392, 393, and Part 396.1, 396.3(a), (a)(1), and (a)(2), and 396.5 through 396.9 and the law and rules of the state of Idaho. All intrastate carriers transporting placardable quantities of hazardous material under 49 CFR Part 172, Subpart F and passengers, meeting the definition of a commercial motor vehicle, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers).

(3-30-07)

c. The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code.

(3-30-07)

02. Obligation of Familiarity With Rules. All interstate and foreign carriers and all intrastate carriers subject to these Rules at IDAPA 11.13.01, "The Motor Carrier Rules," Section 019 must obtain copies of the federal regulations adopted by reference in Subsection 019.01 and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter:

(4-5-00)

- a.** Part 356. Motor Carrier Routing Regulations. (3-29-10)
- b.** Part 365. Rules Governing Application for Operating Authority. (3-29-10)
- c.** Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)
- d.** Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)
- e.** Part 385. Safety Fitness Procedures. (3-29-10)
- f.** Part 387. Minimum Levels of Financial Responsibility. (3-29-10)
- g.** Part 388. Cooperative Agreements with States. (4-5-00)
- h.** Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)
- i.** Part 391. Qualifications of Drivers. (4-5-00)
- j.** Part 392. Driving of Commercial Motor Vehicles. (3-29-10)
- k.** Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)
- l.** Part 395. Hours of Service of Drivers. (4-5-00)
- m.** Part 396. Inspection, Repair and Maintenance. (4-5-00)
- n.** Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)

o. Part 398. Transportation of Migrant Workers. (4-5-00)

p. Part 399. Employee Safety and Health Standards. (4-5-00)

03. Recognition of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-5-00)

04. Version of Federal Regulations Adopted. The federal regulations adopted by reference in this ~~Sub~~section 019 are those contained in the compilation of 49 CFR Parts 356, 365, 382, 383, 385, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated ~~October 1, 2008~~ March 1, 2012.
(~~3-29-10~~)(3-1-12)T

05. Availability of Incorporated Documents. The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at www.fmcsa.dot.gov or copies may be viewed at the office of the Idaho State Police. (3-29-10)